



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
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Dear Prospective Candidate:

Thank you for taking the time to read this Candidate's Guide to the Maine Clean Election Act. We hope it will help you understand how the Maine Clean Election Act works. Regardless of whether you decide to participate as a Maine Clean Election Act candidate, the Ethics Commission staff is available to answer your campaign finance reporting questions. Please contact the staff for any assistance you may require during your campaign.

If you have any questions about anything included in these materials, or about the Maine Clean Election Act, please call the Commission staff at (207) 287-4179. You also may send correspondence by facsimile to the Commission at (207) 287-6775; write to the Commission at 135 State House Station, Augusta, Maine 04333; or visit the Commission office at 242 State Street, Augusta, Maine, on weekdays between 8:00 a.m. and 5:00 p.m. Thank you.

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OVERVIEW OF THE MAINE CLEAN ELECTION ACT

Enacted by Maine voters in 1996, the Maine Clean Election Act (MCEA) established a voluntary program of total public financing of political campaigns for candidates running for Governor, State Senator, and State Representative. The MCEA is administered by the Maine Commission on Governmental Ethics and Election Practices.

Candidates who choose to participate in the MCEA can accept limited private contributions only at the beginning of their campaigns. These contributions -- called “seed money contributions” -- must be made by individuals, and cannot exceed \$100 per contributor. The total amount of seed money a participating candidate may collect is: \$500 for candidates for State Representative, \$1,500 for candidates for State Senator; and \$50,000 for gubernatorial candidates.

After participating candidates receive an initial payment of public funds, they are prohibited from accepting any private contributions (including funds from the candidate). All subsequent expenditures by the campaign must be made exclusively with public funds received under the MCEA.

In order to qualify to receive public funds, participating candidates must meet a number of legal requirements, including collecting the required number of “qualifying contributions” from registered voters in the electoral division of the office sought by the candidate. Qualifying contributions are \$5 checks or money orders that are made payable to the Maine Clean Election Fund, which is the

fund from which candidates receive public money for their political campaigns. The qualifying contributions may be collected during the “qualifying period” of January 1 to April 15 of the election year, and only after the candidate files a Declaration of Intent form with the Ethics Commission. After they have collected the required number of qualifying contributions, **primary election candidates must submit their request for public funds no later than 5 p.m. on April 15.** (General election candidates who are not enrolled in a political party can collect qualifying contributions and request public funds as late as June 2 of the election year.)

To be eligible for public funds, candidates for State Representative must receive at least 50 qualifying contributions; candidates for State Senator must receive at least 150 qualifying contributions; and candidates for Governor must receive at least 2,500 qualifying contributions.

Nonparticipating candidates who have a MCEA opponent must file special reports informing the Commission of the candidate’s total receipts, expenditures, and obligations. MCEA candidates may be eligible to receive additional “matching funds” if the money raised or spent by a nonparticipating opponent (including amounts spent by third-parties to benefit the nonparticipating opponent) exceeds the amount of public funds initially received by the MCEA candidate.

Candidates may spend MCEA funds only on campaign-related expenses in accordance with guidelines published by the Ethics Commission. MCEA funds may not be spent on personal expenses.

A CANDIDATE’S GUIDE TO THE THE MAINE CLEAN ELECTION ACT

Welcome to the world of campaign financing! You’ve made the decision to run for Governor, State Senator, or State Representative, but you’ve learned that one of the challenges to successfully running for political office is financing your political campaign. In any event, it is likely that money will be an important factor in your decision to run for office. That’s simply because of the cost associated with becoming known among prospective constituents and publicizing your ideas so they can compete with those of your opponents. That combination of name recognition and agreement with political philosophy is what generally wins the votes needed to be elected.

Traditionally, candidates have raised money in many different, time-tested ways. Some have gone door-to-door, introducing themselves to neighbors and friends and asking for a small contribution to fund their campaigns. Others, less comfortable with that more personal approach, may have sent letters to registered voters in their districts asking for contributions. Still more adventurous campaigners have hosted fundraisers at local community centers and, after introducing themselves to their guests and making brief presentations on the issues, asked for contributions to support their candidacies in the coming election. And other, maybe more experienced, officeholders have financed their campaigns by combining a variety of sources including contributions from personal supporters and political party committees, as well as from political

action committees that make financial contributions to support various candidates and issues.

No single way of financing a political campaign necessarily guarantees success. Each candidate must decide which method best suits that candidate’s personality and which method best accomplishes the candidate’s objectives. Virtually all candidates agree, however, that a successful campaign cannot be conducted without financial support from some source. But, if you’re not comfortable asking other people for money, or you don’t have time to go door-to-door, or you don’t have many personal connections within the political establishment, or you simply do not want to get onto the fundraising treadmill (or you want to get off), and you think your ideas are worth asking others to vote for, then what can you do to raise money in order to afford to compete in the marketplace of ideas?

That’s where the Maine Clean Election Act (the “MCEA”) comes in! In 1996, Maine citizens voted to provide an alternative way for candidates to obtain the funds necessary to run for state office. Beginning with the elections in 2000, a voluntary, alternative campaign financing option was offered to candidates running for State Senator and State Representative. That option became available for gubernatorial candidates in the 2002 elections. The MCEA does not in any way diminish the ability of candidates who wish to raise campaign funds the traditional way by accepting private contributions. Those candidates may continue to do so, and the way they raise and spend money and report those contributions has not changed substantially.

For the purposes of this booklet, those “traditional” candidates will be referred to as “nonparticipating candidates,” meaning simply that they elect not to participate in the MCEA. That means only that a nonparticipating candidate will not be eligible to receive public funds from the Maine Clean Election Fund (the “Fund”) to finance that candidate’s campaign. The MCEA does not label one candidate as better or worse (*i.e.*, “cleaner” or “dirtier”) than another based on whether the candidate participates in the MCEA or not.

THE MECHANICS

If you decide, as a candidate, that you want to finance your campaign by accepting public financial support from the Fund, who do you tell and how do you do that? The Maine Commission on Governmental Ethics and Election Practices (the “Ethics Commission” or the “Commission”) is responsible for administering the MCEA and the Fund. The Ethics Commission has all of the forms and instructions that candidates need to participate in the MCEA and become eligible to receive campaign money from the Fund.

It may be helpful to explain some terms. A candidate is considered a “participating candidate” when he or she files a Declaration of Intent stating the candidate’s intention to join the Clean Election program. The candidate then becomes a “certified candidate” after the Commission certifies that the candidate has met all of the eligibility requirements to receive public financing. A “nonparticipating candidate” is a candidate who chooses not to participate in the optional, public funding provisions of the Maine Clean Election Act.

The Ethics Commission’s certification of any candidate is not an endorsement of that candidate. Rather, the certification is the Fund administrator’s acknowledgment that the certified candidate has complied with all of the statutory requirements to be eligible to receive public financing from the Fund for that candidate’s campaign.

DECLARATION OF INTENT

Let’s assume you’ve decided to run a publicly financed campaign. The first step is to file with the Ethics Commission a “Declaration of Intent” to seek certification as a Maine Clean Election Act candidate. The Declaration of Intent form must be filed before or during the “qualifying period” (explained below) and before a participating candidate collects any “qualifying contributions.”

SEED MONEY

Before continuing, let’s consider an important concept -- “seed money contributions” -- because in order to be certified, a candidate must attest that he or she has not accepted any contributions, except for seed money contributions.

This is a very important part of eligibility to receive public financing for a campaign. The whole premise of the need for public funding is the exclusion from campaigns of the potential influence of large amounts of private money from influential sources. Yet, how do unknown candidates become better known in their communities? And, how do prospective candidates who may not have run for political office in the past and, therefore, may not be very well known in their communities improve their name recognition in order to

qualify for public funds for their campaigns? Part of the answer to that question is seed money contributions.

A participating candidate (before certification) is permitted to accept a limited amount of money from private sources -- called seed money contributions -- to help that candidate collect the “qualifying contributions” required for certification. In other words, depending upon the office the candidate is seeking, he or she may accept limited contributions from private sources for a limited time.

Seed money contributions must come from individuals. They cannot come from businesses, political action committees, or the campaigns of other candidates. No single contribution may exceed \$100 per contributor (including the candidate and the candidate’s family), and the total amount of seed money contributions a candidate may accept is limited to \$500 for candidates for State Representative, \$1,500 for candidates for State Senate, and \$50,000 for gubernatorial candidates. A participating candidate may not accept any seed money contributions after being certified by the Ethics Commission as eligible to receive public financing. In fact, any seed money contributions that the candidate has not already spent when he or she requests to be certified are credited to the Fund by deducting the amount of that unspent seed money from the total amount of the initial distribution from the Fund that the candidate otherwise would be eligible to receive.

QUALIFYING CONTRIBUTIONS

In order to be eligible to receive public funds, a candidate must receive a minimum number of “qualifying contributions.” A qualifying contribution is simply a way for registered voters to show support for a candidate’s participation in the Clean Election program by making a relatively small financial contribution.

Qualifying contributions must be in the amount of \$5 each and in the form of a check or money order payable to the Maine Clean Election Fund. The contributions may be made only by registered voters (not necessarily of the same political party as the candidate) within the district for the office the candidate is seeking. They may be made only during a specified period of time -- the “qualifying period” -- and with the knowledge and approval of the candidate. The \$5 for the qualifying contribution must come from the contributor’s personal funds. If the Commission determines that the \$5 for the qualifying contribution actually came from a source other than the reported contributor, the misreporting of the source of funds would be a serious violation of the Maine Clean Election Act.

All qualifying contributors must sign a “Qualifying Contributions Receipt and Acknowledgment” form that includes the name and address of the donor. The contributor’s signature on the form confirms that the individual intended to make a qualifying contribution to the candidate, and that the contributor has received nothing in return for making the contribution. Every contributor must personally sign the form – it is not acceptable for the contributor’s signature to be made by a family member or friend. All contributors signing the same page of the form should reside in the same municipality, so that the clerk for the town or city can verify that all

contributors on that page are registered to vote in the district sought by the candidate.

As a convenience to their supporters, candidates may purchase \$5 money orders, provided that each qualifying contributor pays the candidate \$5 to reimburse him or her for the money order and the contributor signs the Qualifying Contributions Receipt and Acknowledgment form. If the money order contains a blank signature line, the contributor must also sign the money order. If the candidate pays a fee to a financial institution or the U.S. Postal Service when purchasing the money order, the payment of the fee must be reported as a seed money expenditure.

To be eligible to receive public funds, a candidate for State Representative must receive \$5 qualifying contributions from a minimum of 50 registered voters from the candidate's district (at least \$250 total). A candidate for State Senate must receive \$5 qualifying contributions from at least 150 registered voters from the candidate's district (at least \$750 total). And, a candidate for Governor must receive \$5 qualifying contributions from at least 2,500 registered voters of Maine (at least \$12,500 total).

Candidates are encouraged to collect more than the minimum number of qualifying contributions, but every qualifying contribution must be in the amount of \$5. All qualifying contributions must be made payable to the "Maine Clean Election Fund" and be submitted by the candidate to the Ethics Commission for deposit into the Fund.

QUALIFYING PERIOD

When can the candidate collect these qualifying contributions? The contributions may only be collected during the "qualifying period." In addition, qualifying contributions may be collected only after the candidate has filed a Declaration of Intent with the Commission.

In the 2004 elections, the qualifying period for candidates who are enrolled in the Democratic, Republican, or Green-Independent parties will be January 1, 2004 to April 15, 2004. The qualifying period for a candidate who is not enrolled in any of the three parties (an "unenrolled candidate") is January 1, 2004 to June 2, 2004.

VERIFICATION BY MUNICIPAL CLERKS

After the candidate has collected the qualifying contributions, he or she must submit the Qualifying Contributions Receipt and Acknowledgment form to the municipal clerk(s) in the candidate's district. The municipal clerk verifies which contributors listed on the form are registered to vote in the candidate's district. The Commission staff then uses the number of contributors verified by the municipal clerk when confirming whether the candidate has submitted the required number (50 or 150) of qualifying contributions.

SUBMITTING THE REQUEST FOR PUBLIC FUNDS

After the candidate has collected the qualifying contributions, he or she may then submit a request for public funds to the Commission.

The request must be received by the Commission no later than 5:00 p.m. on April 15, 2004.

The request must include:

- a Request for Certification form, completed by the candidate;
- at least the minimum number of qualifying contributions;
- an alphabetical list of qualifying contributors;
- a seed money report showing all seed money contributions received and expenditures made by the campaign; and
- the Qualifying Contributions Receipt and Acknowledgment form.

The Commission requests that the Qualifying Contributions Receipt and Acknowledgment form be completed by the municipal clerks before the candidate submits the request for public funds to the Ethics Commission. That way, the Commission can begin to review the request for public funds immediately. The Commission also asks that the candidate paper clip or staple to each page of the form those contributions listed on that page.

As part of the Request for Certification form, the candidate states that he or she has fulfilled the requirements for certification. These requirements include the acceptance of only those contributions that comply with the seed money restrictions and the accurate reporting of seed money and qualifying contributions. Even if the candidate has relied on the assistance of others in soliciting and reporting contributions, it is the candidate's personal responsibility to ensure that the campaign has complied with these requirements. The

Request for Certification constitutes an agreement that the candidate has complied with -- and will continue to comply with -- the requirements of the Maine Clean Election Act throughout his or her campaign.

COMMISSION'S REVIEW OF REQUEST FOR PUBLIC FUNDS

The Commission is required by statute to review each request for certification within three days. Occasionally, the staff must request additional information from a candidate regarding qualifying contributions or the seed money report in order to verify compliance with the MCEA's eligibility requirements.

If a candidate or his or her opponent believes that the Commission has erred in granting or denying a request for certification, they may submit an appeal to the Commission within three days of the certification decision. The members of the Commission will then hold a hearing within five days. The Commission will issue its decision within three days after the hearing is completed. The Commission's decision then may be appealed by commencing an action in the Superior Court. Frivolous appeals or those intended to cause delay or hardship may result in the moving party being required to pay the costs of the Commission, court, or opposing parties, if any.

PROHIBITION ON ACCEPTING CONTRIBUTIONS

Once you have been certified as a Maine Clean Election Act candidate, you may not accept any more contributions. This includes contributions from the candidate and also includes in-kind contributions (goods and services). All expenditures by the campaign must be made with revenues from the Maine Clean Election Fund.

Expenditures made on your behalf by other individuals and organizations (*e.g.*, a political action committee or a political party) will be considered contributions to your campaign, unless the expenditures were truly independent of your campaign. If you or your campaign cooperate in the making of the expenditure -- or if you are even consulted about the expenditure -- it will be considered a contribution to your campaign. This is prohibited after you have been certified as a Maine Clean Election Act candidate.

PAYMENTS OF PUBLIC FUNDS

As a “certified candidate,” you are now eligible to receive your initial distribution of revenues from the Fund. For legislative candidates, the initial distribution of funds for each candidate is based on the average amount of campaign expenditures made by candidates in the previous two elections. In 2004, the amounts of the initial distributions will be:

| PRIMARY | | | | GENERAL | | | |
|------------------|----------------|--------------------|----------------|------------------|-----------------|--------------------|----------------|
| <i>Contested</i> | | <i>Uncontested</i> | | <i>Contested</i> | | <i>Uncontested</i> | |
| House | Senate | House | Senate | House | Senate | House | Senate |
| \$1,374 | \$6,487 | \$456 | \$1,514 | \$4,032 | \$16,791 | \$1,613 | \$6,717 |

The Commission provides a choice of two methods for candidates to receive fund distributions. The more popular method is by electronic transfer directly from the Fund to the candidate’s designated campaign account. The other, generally slower, method is by check mailed to the candidate’s official campaign address.

The amount of the initial Fund distribution may also depend on when the request for certification is submitted. If the request is submitted between March 15th and April 15th, the Commission will decide on the request within three days and will make an initial distribution based on whether the candidate is in a contested or uncontested primary election.

If the request for certification is filed prior to the March 15th deadline for filing nominating petitions with the Secretary of State, the Commission may be uncertain whether the candidate is in a contested or an uncontested primary election. In that case, the Commission will distribute the funds to the candidate within three days as if the candidate is in an *uncontested* primary election. An additional amount will be distributed within three days after March 15 if the candidate is determined to be in a *contested* primary election.

For general election candidates, revenues from the Fund will be distributed within three days after the results of the primary election are certified by the Secretary of State.

MATCHING FUNDS

Prospective participating candidates have asked how they will be able to compete against a nonparticipating opponent who may be able to raise more money privately than a certified candidate receives from

the Fund. That possibility seems to give the nonparticipating candidate a potential financial advantage over the publicly funded candidate.

The MCEA anticipates that possibility and provides a mechanism -- called “matching funds” -- for a certified candidate to stay financially competitive with an opposing nonparticipating candidate. The Commission will release an additional amount of matching funds that is equivalent to the amount a nonparticipating opponent raises or spends over and above the initial distribution that the certified candidate received from the Fund.

An example will illustrate how that provision works. Assume the certified candidate receives an initial distribution of \$5,000. If the opposing nonparticipating candidate receives or spends an amount that is more than 1% above that \$5,000 (in this case, \$5,050), that amount must be reported to the Ethics Commission within 48 hours after the date the nonparticipating candidate receives or expends the excess amount -- called a “101% report.” The Commission then will release to the certified candidate an additional amount of Fund revenues equivalent to the amount reported as excess by the nonparticipating candidate. If, in this example, the 101% report shows that the nonparticipating candidate received and spent \$7,000, the certified candidate would receive \$2,000 in matching funds.

The matching funds calculation also takes into account “independent expenditures” spent by individuals and organizations to defeat a MCEA candidate or to elect the MCEA candidate’s opponent. In the above example, if a political action committee spent \$1,500 on the nonparticipating candidate, the certified candidate would receive an additional \$1,500 in matching funds.

All nonparticipating candidates must file additional reports on the 42nd, 21st, and 12th days before an election which state the candidate’s total receipts, expenditures and obligations to date. When those reports are filed, the Commission will review the total receipts and spending by the nonparticipating candidate to determine whether any certified opposing candidate is eligible to receive additional matching funds.

The total amount of matching funds that may be distributed will not exceed two times the amount initially distributed to the certified candidate. In the above example, because the initial distribution was \$5,000, the total amount of additional matching funds that could be released to the certified candidate would be \$10,000, for a total maximum distribution from the Fund of \$15,000 to that certified candidate for that election.

UNENROLLED (“INDEPENDENT”) CANDIDATES

The discussion so far has assumed that the certified candidate is enrolled as a member of a qualified political party (*i.e.*, Democratic, Green Independent, or Republican). But what about those certified candidates who are not enrolled in one of those parties? Are unenrolled or independent candidates eligible to receive public funding and, if so, how much?

If an unenrolled candidate is certified by April 15th before the primary, that candidate will receive the same amount, and at the same time, as an uncontested primary election candidate and a general election candidate. An unenrolled candidate who is certified after April 15th is eligible for revenues from the Fund in the same amounts as a general election candidate.

LEGAL RESOURCES

Candidates and treasurers are strongly encouraged to read the Maine Clean Election Act and the Commission Rules, which were adopted to establish procedures to implement the Maine Clean Election Act. While the Commission also makes educational materials (such as this booklet) available to campaigns, it is the candidate's and treasurer's responsibility to learn the legal requirements of the Clean Election program and to comply with them. The Maine Clean Election Act and Commission Rules are available on the Commission Web site and will be mailed to candidates in March or April of 2004.

AUDIT AND ENFORCEMENT

All MCEA funds must be spent on campaign-related expenses, in accordance with guidelines published by the Commission. The Commission reviews the expenditures disclosed in campaign finance reports to ensure that all MCEA funds distributed to candidates are used for expenditures that are reported to the public and are within the Commission's guidelines.

The Commission is responsible for enforcing the provisions of the Maine Clean Election Act. Every candidate who chooses to participate in the MCEA agrees to an audit of his or her campaign, which may include, among other things, inspection of campaign records and bank account records. If MCEA candidates and others do not cooperate in an investigation by the Commission, the agency's investigative authority includes the right to subpoena records and to question witnesses under oath.

The Commission is authorized to assess a civil penalty not to exceed \$10,000 per violation against any person who violates any provision of the MCEA or the Commission's rules implementing the MCEA. The following are examples of possible violations by candidates participating in the MCEA that could result in the assessment of a civil penalty:

- misreporting the source of funds for qualifying contributions;
- accepting funds from private sources (including the candidate) after certification; and
- using MCEA funds for personal expenses.

In addition to a penalty, a candidate found in violation of the MCEA may be required to return to the Fund all amounts distributed to the candidate from the Fund. Willful or knowing violations of the MCEA or the Commission Rules, or willful or knowingly false statements in any report required by the MCEA, is a Class E crime and, if committed by a certified candidate, all amounts distributed to that candidate must be returned to the Fund.

INSUFFICIENT FUND RESOURCES

What if the Fund doesn't have enough money to finance all of the candidates who decide to participate in the alternative campaign financing option? If the total amount in the Fund is not enough to meet the initial distribution and matching fund requirements, certified candidates will be permitted to accept and spend private contributions with the same contribution limitations that apply to nonparticipating candidates (\$250 per contributor per election for Senate and House candidates, and \$500 per contributor per election for gubernatorial candidates). The sum of any Fund revenues and private contributions

that a certified candidate may receive under that circumstance must not exceed the amount of the initial distribution and any matching fund amounts which the candidate is authorized to spend.

FREQUENTLY ASKED QUESTIONS CONCERNING THE MAINE CLEAN ELECTION ACT

WHAT IS THE MAINE CLEAN ELECTION ACT AND WHAT DOES IT DO?

- The Maine Clean Election Act (MCEA) establishes an optional, alternative campaign financing choice for candidates who desire to use public funds to finance their campaigns.
- The option is open to Gubernatorial candidates and candidates for the State Senate and State House of Representatives.
- Candidates who choose this option must comply with the terms of the MCEA as well as all other applicable provisions of the election and campaign finance laws.

NOTE: The option is NOT available to county or municipal candidates.

WHAT IS THE FIRST STEP A CANDIDATE MUST TAKE TO PARTICIPATE IN THE MCEA?

- A candidate who wants to participate must file a "Declaration of Intent" to seek certification as a MCEA candidate. The Declaration must be filed prior to or during the qualifying period and must be filed before the candidate can collect any qualifying contributions. (Please see the explanation of qualifying contributions below.)

NOTE: A candidate seeking certification as a MCEA candidate is referred to as a "participating candidate," while a candidate not seeking certification is called a "nonparticipating candidate." Another distinction not made by the MCEA, but sometimes informally used to refer to the two types of fundraising options is that of a "publicly financed" ("participating") candidate compared to a "traditionally or privately financed" ("nonparticipating") candidate.

WHAT ELSE MUST A CANDIDATE DO TO QUALIFY FOR MAINE CLEAN ELECTION FUNDS?

- The candidate must meet certain criteria, including collecting a specified number of valid "qualifying contributions."

MAY A PARTICIPATING CANDIDATE USE PRIVATE FUNDS TO SUPPORT HIS OR HER EFFORTS TO COLLECT QUALIFYING CONTRIBUTIONS?

- Yes, to a limited extent. In order to collect qualifying contributions, a candidate will need money to defray incidental expenses, such as for postage, gas, printing, etc. The MCEA permits candidates to collect some private funds and these are to be used primarily for the purpose of obtaining qualifying contributions. Those funds are defined in the MCEA as "seed money contributions."
- Seed money contributions may only be accepted from individuals, and may not exceed \$100 per contributor (including a contribution from the candidate or the candidate's family). A candidate may not collect or spend seed money contributions after being certified as a MCEA candidate.

ARE THERE OVERALL LIMITS ON HOW MUCH A CANDIDATE MAY COLLECT IN SEED MONEY?

- Yes. Candidates may not accept "seed money" contributions totaling more than:
- \$50,000 for a gubernatorial candidate
- \$1,500 for a State Senate candidate
- \$500 for a State Representative candidate

The Commission may, by rule, revise these amounts to ensure the effective implementation of the law.

WHAT SHOULD I DO WITH MY CAMPAIGN SURPLUS OR DEBT FROM A PREVIOUS CAMPAIGN IF I WANT TO RUN AS A MAINE CLEAN ELECTION ACT CANDIDATE IN 2004?

Q: What is a campaign "surplus?"

A: A campaign "surplus" consists of any funds left over after paying off all previous campaign expenses.

Q: What can candidates, generally, do with a surplus after an election?

A: The law [21-A M.R.S.A. § 1017(8)] gives you eight options for disposing of surplus funds from a previous election campaign. You may:

1. Carry forward the surplus balance for your use as a candidate in a subsequent election or to a political committee established to promote your election in the future. This may be the most common choice, but doing so may get complicated if you intend to receive public funding under the Clean Election Act (see below).
2. Use the funds to repay loans or retire any other debts incurred to defray campaign expenses of your previous campaign.
3. Use the surplus funds to pay "for any expense incurred in the proper performance of the office" to which you were elected. This is another popular option (provided your candidacy was successful). It means that you may use your surplus funds to pay for "constituent services" or do such things as purchase equipment or supplies or hire an assistant.
4. Refund contributions to your contributors on a *pro rata* basis.
5. Give the money to a political party within the State, including any county or municipal subdivision of a party.

6. Give an unrestricted gift to the State.

7. Make contributions to other candidates, subject to contribution limits.

8. Make gifts to charitable or educational organizations not prohibited for tax reasons from receiving such gifts.

Q: What if I want to run as a Clean Election Act candidate in 2004?

A: The Maine Clean Election Act has not changed the law on the disposition of surplus funds, but the MCEA's restrictions on raising private contributions limits how much of your surplus you may carry forward to your next campaign.

Q: May I carry the surplus forward and count individual contributions toward my "seed money?"

A: Yes, but only to the extent that you can show that the source of the surplus funds meets the definition of "seed money contribution" (*i.e.*, contributions of \$100 or less from individuals). Under the Clean Election Act, you are allowed to raise seed money in amounts of \$100 or less from individuals to help you start your campaign. House candidates may raise up to \$500 in seed money; Senate candidates, up to \$1,500; Gubernatorial candidates up to \$50,000. Subject to those caps, you may use your prior campaign surplus as seed money, as long as you raised that much money in contributions of \$100 or less from individuals in your last campaign. If you intend to use former campaign surplus funds as "seed money" for your 2004 Clean Election Act campaign, you should start a new account for those funds and report the transfer of surplus funds as an expenditure in the campaign finance report of your prior campaign.

Q: When do I have to decide what to do with my surplus?

A: If you want to run as a Clean Election Act candidate in 2004, you must dispose of your surplus before filing your "Declaration of Intent" to participate.

Q: May I give my surplus to other candidates?

A: Yes, but only to nonparticipating candidates (candidates who will not participate in the Clean Election Act) and subject to the contribution limit of \$250 per candidate for State Senator or Representative and \$500 per candidate for Governor. Participating candidates may not accept contributions from "political committees," which include candidate committees, or any other form of organization. Any surplus from a 2002 campaign account should come from that separate account and be properly reported on campaign finance reports.

Q: If I participate in the Clean Election Act in 2004, may I use leftover campaign equipment or property from my past campaigns?

A: Yes. You may carry forward signs, supplies, computer equipment, or other campaign property.

Q: What if I have a campaign debt from 2002?

A: You should make every effort to repay that debt before you file your Declaration of Intent to participate in the Clean Election Act.

Q: May I raise money to pay off my debt while I am a participating candidate?

A: No. Once you are a participating candidate, you may accept only seed money contributions for your 2004 campaign. You may, however, forgive any personal campaign loans you have made to your own campaign.

HOW MUST SEED MONEY CONTRIBUTIONS AND EXPENDITURES BE REPORTED BY THE CANDIDATE?

- Seed money contributions and expenditures must be filed in a special campaign finance report that is filed at the time the candidate submits the Request for Certification.

WHAT ARE “QUALIFYING CONTRIBUTIONS?”
WHEN MAY A CANDIDATE COLLECT THEM? WHAT
PROCEDURES MUST THE CANDIDATE FOLLOW TO
COLLECT THEM?

- A “qualifying contribution” is a \$5 donation in the form of a check or money order made payable to the Maine Clean Election Fund. The contribution must be made by a registered voter within the electoral division for the office the candidate is seeking. The law specifies that qualifying contributions must be collected during the designated qualifying period (see below) after a Declaration of Intent is filed, and must be obtained with the knowledge and approval of the candidate. Each contributor must sign the Qualifying Contributions Receipt and Acknowledgment form, which the Commission makes available to candidates.

NOTE: The municipal clerk must verify that the qualifying contribution donor is a registered voter within the candidate's electoral division. Therefore, the Qualifying Contributions Receipt and Acknowledgment form should include names of donors registered to vote in the same town so that only one municipal clerk needs to examine the document.

HOW MANY QUALIFYING CONTRIBUTIONS MUST
THE CANDIDATE COLLECT TO BE ELIGIBLE FOR
MAINE CLEAN ELECTION FUNDS?

- A gubernatorial candidate, must obtain qualifying contributions from at least 2,500 verified registered voters in this State.
- A State Senate candidate must obtain qualifying contributions from at least 150 verified registered voters from the candidate's district.
- A candidate for State Representative must obtain qualifying contributions from at least 50 verified registered voters from the candidate's district.

WHAT IS THE DURATION OF THE “QUALIFYING
PERIOD”?

- For candidates for State Senator and Representative who are enrolled in the Democratic, Republican, or Green Independent parties, the qualifying period begins on January 1, 2004, and ends at 5:00 p.m. on April 15, 2004.
- For unenrolled candidates for State Senator and Representative, the qualifying period begins on January 1, 2004, and ends at 5:00 p.m. on June 2, 2004.

WHAT IS THE QUALIFYING PERIOD FOR A
CANDIDATE RUNNING IN A SPECIAL ELECTION OR
A CANDIDATE CHOSEN TO FILL A VACANCY AFTER
THE PRIMARY ELECTION?

- The Commission has adopted rules regarding the procedures for the qualifying period and for certifying and disbursing funds to candidates in unusual situations. Please contact the Commission to obtain a copy of the rules or check the Commission Web site. Special circumstances are addressed by the Commission on an *ad hoc* basis.

ONCE A CANDIDATE HAS OBTAINED THE
REQUIRED NUMBER OF VALID QUALIFYING
CONTRIBUTIONS, WHAT IS THE NEXT STEP?

The candidate must request public funds by submitting:

- (1) a Request for Certification form, completed by the candidate;
- (2) at least the minimum number of qualifying contributions;
- (3) an alphabetical list of qualifying contributors;
- (4) a seed money report showing all seed money contributions received and expenditures made by the campaign; and
- (5) the Qualifying Contributions Receipt and Acknowledgment form.

WHEN DOES CERTIFICATION TAKE PLACE?

- A participating candidate will be “certified” no later than 3 days after the candidate submits the required number of qualifying contributions to the Commission and fulfills all other requirements for certification.

WHAT ARE THE OTHER CRITERIA TO BECOME CERTIFIED AS ELIGIBLE TO RECEIVE CLEAN ELECTION ACT FUNDS?

The Commission must determine eligibility to receive MCEA funds on the basis of whether or not the candidate has:

- 1) Signed and filed a Declaration of Intent to participate in the MCEA;
- 2) Submitted the appropriate number of qualifying contributions;
- 3) Qualified as a candidate by petition or other means;
- 4) Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; and
- 5) Otherwise met the requirements for participating in the MCEA (for example, complied fully with rules the Commission has promulgated).

CAN A CANDIDATE WHO IS DENIED CERTIFICATION, OR THE OPPONENT OF A CERTIFIED CANDIDATE, APPEAL THE COMMISSION’S CERTIFICATION DECISION?

- Yes. A candidate who has been denied certification as a MCEA candidate, or the opponent of a candidate who has been granted certification, may challenge a certification decision by the Commission staff by appealing to the full Commission within 3 days of the certification decision. The Commission’s final decision may be appealed to the Superior Court. Strict time limits are provided for the administrative appeal process.

MAY A MCEA CANDIDATE COLLECT OR SPEND ANY PRIVATE FUNDS AFTER BECOMING CERTIFIED?

- No. A candidate who becomes eligible for MCEA funds may not accept private contributions unless authorized by the Commission (*e.g.*, if there were insufficient MCEA fund revenues). The candidate must limit his or her expenditures and obligations to the revenues distributed from the MCEA Fund.

WHAT HAPPENS TO ANY UNSPENT SEED MONEY AND THE QUALIFYING CONTRIBUTIONS COLLECTED BY THE CANDIDATE?

- Before certification, the candidate must turn over all qualifying contributions to the Commission. Upon certification, the Commission deducts the amount of any unspent seed money from the amount of the initial distribution from the Fund to the certified candidate.

HOW SOON AFTER BEING CERTIFIED MAY A CANDIDATE OBTAIN CLEAN ELECTION FUNDS?

- For candidates certified between March 15th and April 15th, revenues from the Fund will be distributed within 3 days after certification according to whether the candidate is in a contested or uncontested primary election.

- For candidates certified prior to March 15th, revenues from the Fund will be distributed within 3 days after certification as if the candidate is in an uncontested primary election.
- For candidates certified prior to March 15th who are later determined to be in a contested primary election, additional revenues from the Fund will be distributed within 3 days of March 15th based upon the Secretary of State's certification of the ballot races.

HOW MUCH MONEY MAY A CERTIFIED MCEA CANDIDATE RECEIVE?

- The level of funding available to certified legislative candidates is determined by the Commission by calculating the average amount of campaign expenditures made by each candidate for the particular office sought during the previous two elections. The amounts for the 2004 elections are listed on page 14.

ARE THERE RESTRICTIONS ON HOW MCEA CANDIDATES MAY SPEND MCEA FUNDS?

- Revenues from the MCEA Fund must be used for campaign-related purposes. The Commission has established and published guidelines outlining permissible campaign-related expenditures.
- Personal expenses are not permissible campaign-related expenditures. Personal expenses are expenses that exist irrespective of the candidate's campaign. In other words, if the expenditure would be paid even if the person were not a candidate, it is a personal expense and, therefore, not campaign-related.
- Campaign-related expenditures must also meet the test of reasonableness by candidates under similar circumstances. In other words, would the amount be viewed as reasonable by other candidates in the same circumstance?

NOTE: Presently, there are no limitations with respect to how a "nonparticipating" (*i.e.*, "traditional") Maine candidates may use campaign funds, except for the use of surplus campaign funds.

MAY ADDITIONAL MAINE CLEAN ELECTION ACT FUNDS BE DISTRIBUTED TO A MCEA CANDIDATE AFTER THE INITIAL DISTRIBUTION?

- Yes, under certain circumstances. For instance, when reports show that the sum of a nonparticipating candidate's expenditures and obligations, or funds raised and borrowed, whichever is greater, alone or in conjunction with independent expenditures, exceeds the initial distribution amount, the Commission will release to the opposing MCEA candidate an additional amount equivalent to the reported excess. These "matching funds" will be limited to 2 times the amount originally distributed to the MCEA candidate.

HOW WILL THE COMMISSION KNOW WHEN A MATCHING FUND DISTRIBUTION IS WARRANTED?

- The law requires that whenever a nonparticipating candidate receives, spends, or obligates more than 1% in excess of the primary or general election distribution amount made to that candidate's participating MCEA opponent, the "nonparticipating" candidate must file a report with the Commission detailing that candidate's total campaign contributions, obligations and expenditures to date. The report must be filed within 48 hours of the triggering event. All nonparticipating candidates with a MCEA opponent must file updated reports with the Commission 42 days, 21 days, and 12 days before the election. If the nonparticipating candidate has not raised or spent 101% of the amount of the MCEA candidate's initial distribution, the candidate may instead file a signed affidavit with the Commission attesting to the fact that the candidate has not raised or spent the requisite amount.
- In addition to the foregoing, the law requires that persons who make independent expenditures on behalf of a candidate must file special reports with the Commission according to a reporting schedule that the Commission has established.

IS THERE ANY PENALTY IF A CANDIDATE WITHDRAWS FROM PARTICIPATING AS A MCEA CANDIDATE OR IN ANY OTHER WAY VIOLATES THE ACT?

- A candidate who violates any provision of the MCEA (including withdrawal) is subject to a civil penalty not to exceed \$10,000 per violation payable to the MCEA Fund. In addition, a candidate may be required to return to the MCEA Fund all amounts distributed to the candidate from the Fund. A person who willfully or knowingly violates the Act or rules of the Commission, or willfully or knowingly makes a false statement in any report required by the Act, commits a Class E crime and must return to the Fund all amounts distributed to the candidate.

**DEADLINES FOR CAMPAIGN FINANCE REPORTING
AND MAINE CLEAN ELECTION ACT**

(subject to change by legislation –
please see filing schedule published by Commission in 2004)

| MONTH/YEAR | ELECTION CYCLE EVENTS | DEADLINES FOR CAMPAIGN FINANCE REPORTS | ADDITIONAL DEADLINES FOR MCEA AND NON-PARTICIPATING CANDIDATES |
|---------------|--|---|--|
| November 2003 | | | Seed money contributions may be accepted after registering as a candidate with the Commission |
| December 2003 | | | |
| January 2004 | Petition papers become available from the Secretary of State's Office | January 15, 2004 -- Semi-Annual Report due (only for candidates that raised at least \$500 in 2003) | January 1, 2004 -- Qualifying period begins (MCEA candidates may begin to collect qualifying contributions) |
| February 2004 | | | |
| March 2004 | March 15, 2004 -- Deadline for enrolled candidates to qualify for ballot by petition | | |
| April 2004 | | | April 15, 2004 -- Requests for Certification and seed money reports <u>must</u> be received by 5:00 p.m. from MCEA candidates in primary elections April 27, 2004 -- 42-Day Accelerated Report due for nonparticipating opponents of MCEA candidates |

| MONTH/YEAR | ELECTION CYCLE EVENTS | DEADLINES FOR CAMPAIGN FINANCE REPORTS | ADDITIONAL DEADLINES FOR MCEA AND NON- PARTICIPATING CANDIDATES |
|----------------|--|---|---|
| May 2004 | | May 28, 2004 -- 48-Hour Report period begins for all candidates | May 18, 2004 -- 21-Day Accelerated Report due for nonparticipating opponents of MCEA candidates May 26, 2004 -- 48-Hour Report period begins for nonparticipating opponents of MCEA candidates May 27, 2004 -- 12-Day Accelerated Report due for nonparticipating opponents of MCEA candidates |
| June 2004 | June 8, 2004 -- Primary Election (2 nd Tuesday in June) | June 2, 2004 -- 6-Day Pre-Primary Report due for all candidates | June 2, 2004 -- Requests for Certification <u>must</u> be received by 5:00 p.m. from unenrolled MCEA candidates |
| July 2004 | July 12, 2004 -- Deadline for withdrawing as a candidate July 26, 2004 -- Deadline for party replacement candidates | July 20, 2004 -- 42-Day Post-Primary Report due for all candidates | |
| August 2004 | | | |
| September 2004 | | | Sept. 21, 2004 -- 42-Day Accelerated Report due for nonparticipating opponents of MCEA candidates |

| MONTH/YEAR | ELECTION CYCLE EVENTS | DEADLINES FOR CAMPAIGN FINANCE REPORTS | ADDITIONAL DEADLINES FOR MCEA AND NON- PARTICIPATING CANDIDATES |
|----------------------|--|--|---|
| October 2004 | | October 22, 2004 -- 48-Hour Report period begins for all candidates October 27, 2004 -- 6-Day Pre-General Report due for all candidates | October 12, 2004 -- 21-Day Accelerated Report due for nonparticipating opponents of MCEA candidates October 20, 2004 -- 48-Hour Report period begins for nonparticipating opponents of MCEA candidates October 21, 2004 -- 12-Day Accelerated Report due for nonparticipating opponents of MCEA candidates |
| November 2004 | Nov. 2, 2004 -- General Election (1 st Tuesday after 1 st Monday in November) | | |
| December 2004 | | Dec. 14, 2004 -- 42-Day Post-General Report due for all candidates | |
| January 2005 | | January 18, 2005 -- Semi-Annual Report due (for candidates losing the primary election with surplus funds or debt of more than \$50) | |
| February – June 2005 | | | |
| July 2005 | | July 15, 2005 -- Semi-Annual and Termination Reports due | |

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